

REMARKS

I. Introduction

Upon entry of the present amendment, claims 95-111, 113, 115, and 116 will be pending in this application. Claims 95, 100, 101, 102, 104-106, and 109-110 have been amended to clarify certain aspects of the invention. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

II. 35 U.S.C. § 103

A. Smith in view of Forney

The Examiner has rejected claims 95-109 under 35 U.S.C. § 103(a)¹ as being unpatentable over U.S. Patent No. 4,409,453 to Smith in view of U.S. Patent No. 4,737,373 to Forney. The Examiner's position is that Smith teaches four means for directing gas and suggests that it would have been obvious to modify the Smith nozzle plates to comprise two sections instead of one section.

Applicants are unclear as to how this rejection relates to the claimed invention, which previously recited that the first and second gas directing means directed gas from the *left and right sides* of the oven, and currently further clarifies this feature by reciting *left and right gas transfer systems* (claim 95) and at least one pair of gas directing means for directing gas from *the left and right sides* (claim 109). The Examiner has not pointed to any portion of the cited references that specifically teach or suggest this claimed configuration.

Without acquiescing to the Examiner's rejections but in the interest of advancing the prosecution of this application,

¹ The Action cites 35 U.S.C. 102(b), but it is believed that 103(a) as intended, since the rejection uses a combination of references.

Applicants have amended claim 95 to recite a “*left gas transfer system* configured to deliver gas to the oven cavity from the left side thereof and a *right gas transfer system* configured to deliver gas to the oven cavity from the right side thereof.” Applicants have further clarified that the left and right gas transfer systems deliver gas from the left and right sides, respectively, “and *not from the top wall.*” Claim 109 similarly recites “at least one pair of gas directing means for directing gas within the oven cavity *from the left and right sides*” and “*not from the top wall.*” Support for the present amendments appears in the specification at least at pages 22-23, 26-27, and in the figures, examples of which are reproduced below. These figures show gas being directed only from the left and right sides of the oven cavity and not from the top wall.

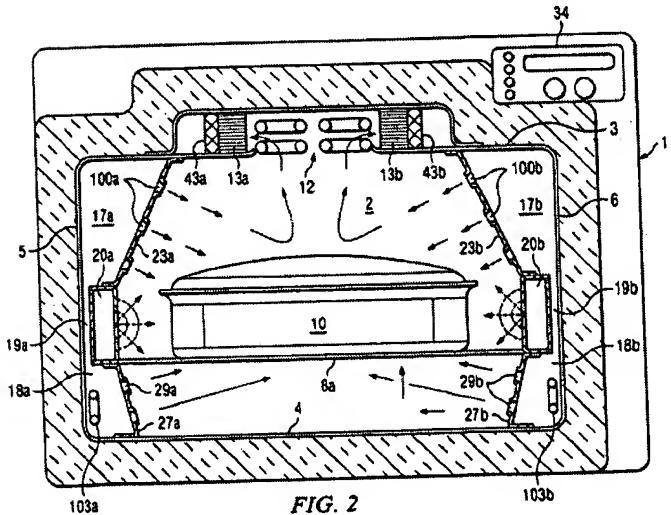


FIG. 2

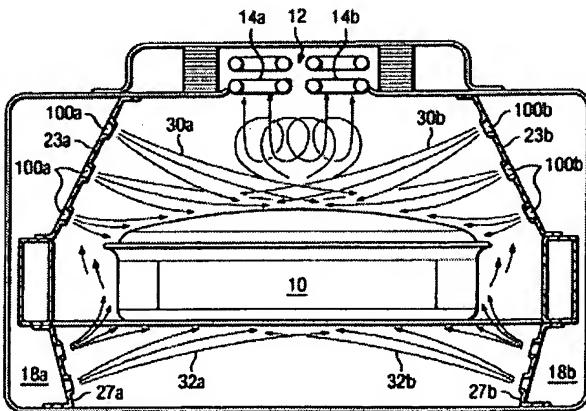


FIG. 6a

The Examiner appears to rely on the Forney reference as disclosing nozzles that direct hot air from left and right sides of an oven cavity, referring to col. 3, lines 19-25, which states that nozzles 30 "preferably are positioned substantially all around the path of the food product as shown in Fig. 4." However, Forney Fig. 4, reproduced below, clearly shows

that the Forney nozzles are positioned along the *top and bottom walls only*, and *not* along at left and right sides.

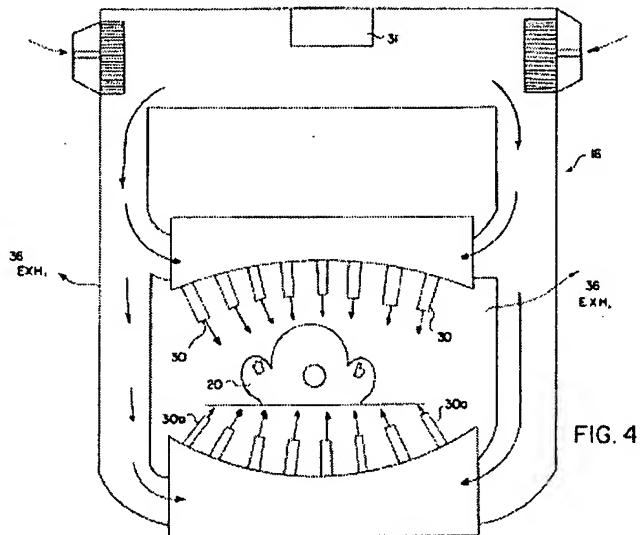


FIG. 4

Smith likewise fails to teach the claimed left and right gas transfer systems. Smith specifically directs gas from the top wall (and bottom wall) of the cavity, and not from the left and right side walls as presently claimed. This is shown clearly by Smith Fig. 7, reproduced below.

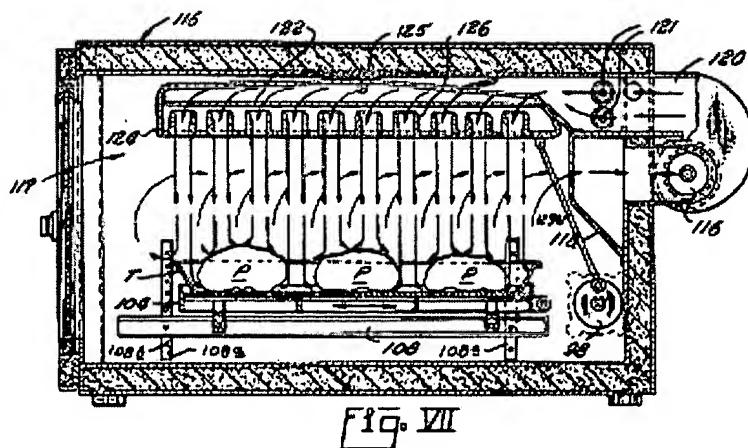
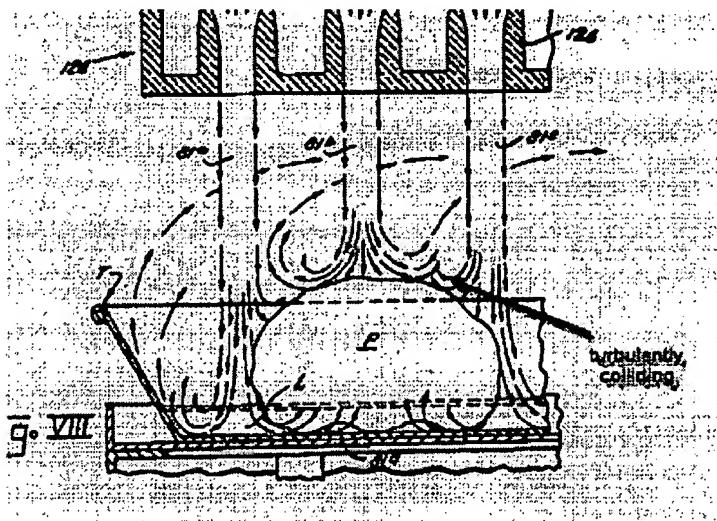


Fig. VII

The figure reproduced at page 5 of the Office Action helps make this point even clearer, because it shows gas being directed down from the top wall only, and *not* from the left or right sides of the oven cavity:

Segment of Fig. 8 of Smith
(the examiner has added lead arrow and text)



In fact, directing gas from the side walls of the cavity would disrupt the required uniformity of the sweeping action of the jets across the upper surface of the food product—an essential feature and goal of the Smith patent. For example, Smith refers to its jet spacing as follows: “said jets being spaced such that return air passes between the jets in a pattern so that one jet does not sweep under another jet as air returns to a blower for recirculation over a heating element.” See Smith, col. 4, lines 44-51 (emphasis added). If jets were positioned on the left and rights sides or walls in the Smith device, the jets would sweep under each other, exactly what Smith seeks to prevent with its described jet spacing. Smith further states that “[t]o provide a uniform heating over the surface of the product, means is provided for

causing jets 81 to sweep uniformly across the entire surface of the product.” *See* Smith, col. 9, lines 21-24. Again, if jets were positioned on the left and right side walls in the Smith device, the jets would fail to sweep uniformly as desired.

Further, the presently-presented claims recite that the left and right gas transfer systems direct gas from the left and right sides of the oven cavity “and not from the top wall of the oven cavity.” Gas is specifically not directed from the top wall in the claimed method. This claim element distinguishes over both the Smith and Forney reference because both Smith and Forney disclose directing gas down *from the top wall*. The Examiner has simply failed to point to any teaching or suggestion of a system that directs gas from the left and right side walls, and not from the top wall, as presently claimed.

B. Smith in view of Forney in further view of Hurley

The Examiner has rejected claims 110, 111, 113, 115, and 116 under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of Forney in further view of U.S. Patent No. 5,166,487 to Hurley. The Examiner’s position is that Smith and Forney teach all claimed elements with the exception of directing microwave energy from the opposing side of the cooking chamber. The Examiner admits that Smith only suggests the use of a single microwave energy generator but submits that Hurley teaches a cooking method where microwave generating magnetrons are arranged at opposite ends of the cooking chamber. The Examiner submits that it would have been obvious to modify the cooking methods of Smith to incorporate directing microwave energy at opposite sides of the cooking chamber as taught by Hurley. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

As discussed above, Smith fails to teach or suggest directing gas (or microwave waveguides or energy) into the oven cavity from the left or right side. Hurley similarly fails to provide this feature. The Examiner refers to the Hurley magnetrons as arranged at opposite ends of the cooking chamber. However, the Hurley “magnetrons [12, 14] are preferably positioned *rearward* and at opposite ends of the cooking chamber.” *See* Hurley, col. 5 lines 53-55 (emphasis added). This does not anticipate or make obvious the claimed system, which directs heated gas and microwave energy from the opposing left and right sides of the oven cavity, as presently claimed.

Furthermore, Applicants continue to disagree that the Smith or the Hurley references teach or suggest directing heated gas at a downward angle of less than ninety degrees from horizontal toward a top surface of a food product in an oven cavity. As discussed above, the Smith patent specifically directs air *vertically downward* toward the food product. Hurley illustrates heated air directed *horizontally* through slots 42. Neither design provides a gas system positioned on both the left and right side walls to direct air at the claimed angle. Because the Examiner has failed to point to the presently-claimed features in any of the cited references, Applicants respectfully request that these rejections be withdrawn.

CONCLUSION

For at least the above reasons, Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. If the Examiner believes there are any issues that can be resolved via a telephone conference, or if there are any informalities that can be corrected by an Examiner's amendment, she is invited to contact the undersigned.

Respectfully submitted,

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